

# THEMBISILE-HANI LOCAL MUNICIPALITY



## HIV /AIDS POLICY 2024/25

## HIV/AIDS POLICY

### 1. PREAMBLE

The Municipality recognises the seriousness of the Human Immunodeficiency Virus / Acquired Immune Deficiency Syndrome (HIV/AIDS) epidemic and its impact on the workplace, and supports national efforts to reduce the spread of infection and minimise the impact of the disease. The Municipality recognises the importance of its employees and its responsibility to care for their personal well-being in the workplace, and is committed to address the psycho-social issues which may disturb employees infected and affected by HIV/AIDS and assents to create a supportive and caring environment for those affected and infected by HIV/AIDS.

### 2. PURPOSE

This policy aims to guide the Municipality's management, employees and prospective employees on how best to manage HIV/AIDS within the workplace, in order to:

- 2.1 Ensure non-discrimination between individuals with HIV infection and those affected (e.g. co-workers) and between HIV/AIDS and other life threatening conditions.
- 2.2 Create a safe and healthy working environment for all employees and the public who utilise the Municipality's facilities.
- 2.3 Introduce educational awareness and prevention programmes to contain and prevent the spread of HIV.
- 2.4 Manage, support and accommodate those individuals who are infected or affected by HIV/AIDS so that they may continue to work productively for as long as possible.
- 2.5 Ensure that no person discriminate against an employee or prospective employee on the basis of his or her HIV status.
- 2.6 Ensure that no person shall be denied employment, treated unfairly within the employment relationship, or be unfairly dismissed on the basis of his/her HIV status.

### 3. SCOPE

The policy shall apply to all employees, candidates who apply to the Municipality for employment, workplaces, and contract employment under the Municipality.

#### **4. LEGISLATIVE AND POLICY FRAMEWORK**

- Constitution of the Republic of South Africa Act 108 of 1996
- Municipal Systems Act 32 of 2000
- Municipal Structures Act 117 of 1998
- Municipal Finance Management Act 56 of 2003
- Labour Relations Act 66 of 1995
- Employment Equity Act 55 of 1998
- Local Government: Regulations on appointment and conditions of employment of senior managers, dated 17 January 2014
- Local Government: Municipal Staff Regulations, 2016 (issued in terms of Section 72, read with Section 120 of the Municipal Systems Act 32 of 2000)
- Local Government: Guidelines for the Implementation of the Municipal Staff Regulations, 2016 (issued in terms of Section 72, read with Section 120 of the Municipal Systems Act 32 of 2000)
- Basic Conditions of Employment Act 75 of 1997
- South African Local Government Bargaining Council: Collective Agreements
- Occupational Health and Safety Act 85 of 1993
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Medical Schemes Act 131 of 1998

#### **5. DEFINITIONS**

All terminology used in this policy shall bear the same meaning as in the applicable legislation, or as defined and / or explained in the Glossary of the Human Resources Policies Manual.

#### **6. PROBLEM STATEMENT**

to guide the Municipality's management, employees and prospective employees on how best to manage HIV/AIDS within the workplace, in order to:

#### **7. POLICY PROVISIONS**

##### **7.1 Principles**

The Municipality shall ensure that the following principles are adhered to:

- 7.1.1** Voluntarism, emphasising self-referral as the most effective form of referral.

- 7.1.2** Confidentiality, which safeguards the details that employees reveal, and includes the safeguarding of all records, the non-sharing of any information other than with the employee's consent and that interviews be conducted in a place which is considered private. This information shall not be part of the personnel file.
- 7.1.3** Neutrality, that the role and function of the HIV/AIDS Counsellor shall not be tainted by workplace issues pursued by management and the workforce and thus maintains a state of neutrality as defined by the Labour Relations Act.
- 7.1.4** Accessibility, committing management to make the service available to all employees.
- 7.1.5** Broad brush, which refers to all problems which shall affect job performance.
- 7.1.6** Constructive motivation, in that management shall motivate and give employees the option to make use of the HIV/AIDS services.
- 7.1.7** Permanency, by means of a mutually agreed policy statement which guarantees the survival of the HIV/AIDS programme.

## **7.2 Awareness, Prevention and Care Programmes**

### **7.2.1 Life-skills training**

The Municipality shall provide life-skills training and empowerment programmes for all its employees, and these shall focus on:

**7.2.1.1** Health promotion, prevention and care.

**7.2.1.2** Appropriate prevention and management of sexually transmitted diseases (STDs) and tuberculosis (TB), and other opportunistic infections.

**7.2.1.3** Condom promotion and distribution.

**7.2.1.4** Counselling on risk reduction.

### **7.2.2 Awareness Programmes**

**7.2.2.1** Every department or workplace shall participate in developing and implementing a workplace HIV/AIDS Awareness Program.

**7.2.2.2** An extensive range of awareness activities shall be embarked on. These shall include exhibitions, displays, posters, pamphlets, newsletters, etc. as may be necessary to promote awareness.

**7.2.2.3** All new employees shall attend an HIV/AIDS awareness programme as part of their induction training.

### **7.2.3 Prevention and Care Programmes**

**7.2.3.1** All employees shall, on an on-going basis, be exposed to HIV/AIDS educational programmes

**7.2.3.2** The Municipality shall endeavour to give active support within budget limitations to Community Based Organisations (CBOs) and Non-Governmental Organisations (NGOs) involved in HIV/AIDS care and prevention services.

**7.2.3.3** Peer educators shall be identified, trained and supported to promote the programme at workplace level.

**7.2.3.4** Workplace programmes shall be based on consultations between the management, employee, where appropriate, NGOs and CBOs with expertise in HIV/AIDS education, counselling, and care services. These programmes shall cover at least:

- a. HIV/AIDS statistics, medical facts, etc.
- b. Link of STDs and TB to HIV.
- c. Risk assessment and safer sex practices.
- d. Sexuality, Sexual Orientation, Sexual and Reproductive Health.
- e. Gender and Cultural issues related to HIV/AIDS.
- f. Relationships and Communication.
- g. Attitudes and Values, Discrimination (to decrease stigma).
- h. Living with HIV/AIDS (management, support, care, and referral).
- i. Universal Precautions.
- j. Legal and Ethical issues (employment, confidentiality and disclosure).
- k. HIV/AIDS and Pregnancy.
- l. Pre and Post Test Counselling, HIV Testing.

#### **7.2.4 Workplace exposure**

There are numerous ways in which employees could be exposed to HIV/AIDS in the workplace, for example:

**7.2.4.1** Injuries that occur resulting in bleeding and blood staining of clothes, tools and objects.

**7.2.4.2** Resuscitation and first aid measures.

**7.2.4.3** Rape or sexual penetration assault.

**7.2.4.4** Assault with sharp instruments or bleeding injuries.

#### **7.2.5 Educational programmes**

**7.2.5.1** The Municipality shall endeavour to, within the scope of its budget constraints, provide educational programmes regarding HIV/AIDS for all employees.

**7.2.5.2** These programmes shall provide information and teach the skills necessary for all employees to prevent themselves and others from becoming infected. The programmes shall further seek to establish and maintain a work environment free of discrimination.

**7.2.5.3** Programmes shall be regularly monitored, evaluated, reviewed and revised in accordance with any changes that may occur.

**7.2.5.4** Programmes shall be linked, where feasible, to other health promotion programmes, such as the Employee Assistance Programme.

#### **7.2.6 Gender specific programmes**

**7.2.6.1** All programmes shall be gender sensitive as well as sensitive to race and sexual orientation.

**7.2.6.2** Programmes should help women to understand their rights, both within and outside the workplace.

**7.2.6.3** Information to women needs to alert them to the fact that they are at higher risk of infection.

**7.2.6.4** Appropriately targeted prevention programmes should be developed for men and should include strategies to promote men's responsibilities regarding HIV/AIDS prevention.

### **7.2.7 Voluntary Counselling & Testing**

**7.2.7.1** The Municipality shall encourage all employees to be tested to determine their HIV status.

**7.2.7.2** Such testing shall be voluntary and shall be accompanied by pre and post- test counselling to ensure informed consent.

**7.2.7.3** Counselling and testing records and results shall remain confidential with the testing entity or professional.

**7.2.7.4** Employees and prospective employees who voluntarily disclose their HIV status shall not be refused employment / promotion on the grounds of their HIV status.

**7.2.7.5** All employees have the legal right to confidentiality about their HIV/AIDS status, except in circumstances where the employer is legally required to disclose such information.

## **7.3 Confidentiality and Disclosure**

**7.3.1** All persons with HIV/AIDS have the legal right to privacy regarding their HIV status in all aspects of employment.

**7.3.2** An employee is under no obligation to inform the Municipality of his / her HIV status.

**7.3.3** Where an employee chooses to disclose his / her HIV status to the employer, this information shall not be disclosed to others without the employee's express consent.

## **7.4 HIV/AIDS Testing**

### **7.4.1 Conducting an HIV/AIDS Test**

**7.4.1.1** HIV testing shall be carried out with informed consent which means that the employee has been made aware of, and understands, the implications of the test.

**7.4.1.2** Pre-test counselling shall be given before an HIV test, to make sure that the person has sufficient information to make an informed decision about having a HIV test.

**7.4.1.3** Post-test counselling shall be provided when an individual receives his / her HIV test results.

## **7.4.2 Circumstance & Conditions the Municipality may provide testing**

**7.4.2.1** Municipality may provide testing to an employee who has requested a test in the following circumstances:

- a. As part of a health care service provided in the workplace.
- b. In the event of an occupational accident carrying a risk of exposure to blood or other body fluids.
- c. For the purposes of applying for compensation following an occupational accident involving a risk of exposure to blood or other body fluids.

**7.4.2.2** Such testing may only take place within the following defined conditions:

- a. At the initiative of an employee.
- b. Within a health care worker and employee-patient relationship.
- c. With informed consent and pre- and post-test counselling.
- d. With strict procedures relating to confidentiality of an employee's HIV status.

**7.4.2.3** The Municipality may require testing whilst adhering to legislation in, amongst others, the following circumstances:

- a. As a condition of employment.
- b. During procedures related to termination of employment.
- c. As an eligibility requirement for training / development programmes
- d. As an access requirement to obtain employee benefits.

## **7.5 Creating a Safe Working Environment**

**7.5.1** The Municipality shall strive to provide and maintain, a working environment that is safe and without risk to the health of its employees, shall provide psycho-social support to the counsellors and affected staff

wherever possible, and shall take steps to ensure the risk of HIV transmission at work is minimised. These shall include:

**7.5.1.1** Assessing the risk, if any, of the occupational transmission of HIV within the workplace.

**7.5.1.2** Providing appropriate training on how to deal with and reduce the risk of HIV transmission at work.

**7.5.1.3** Providing appropriate equipment and materials to deal with and reduce the risk of transmission at work.

**7.5.2** Where a real possibility of HIV transmission has occurred following an occupational accident, rape or a sexual penetration assault, the Municipality shall take all reasonably necessary steps to assist the employee to:

**7.5.2.1** assess the risk of HIV transmission (counselling)

**7.5.2.2** prevent the risk of HIV transmission prior to zero-conversion (testing and treatment / prophylaxis)

**7.5.3** The Municipality shall provide medically-advised guidelines regarding steps to be taken in the event of an occupational incident with a risk of HIV infection and to prevent cross infections. These guidelines shall include such elements as:

**7.5.3.1** Creating an awareness of the risk of HIV transmission in the event of an occupational incident involving blood or bodily fluids.

**7.5.3.2** HIV testing of the parties involved in an accident.

**7.5.3.3** Reporting procedures.

## **7.6 Compensation for HIV/AIDS Infection at Work**

**7.6.1** The Municipality shall take all reasonable steps in terms of the Compensation for Occupational Injuries and Diseases Act to assist employees with claims for compensation and compensate for cost of testing and prophylactic therapy before zero-conversion as performed by specified health centres.

**7.6.2** A claim to the Compensation Commissioner shall only be submitted upon confirmation of zero-conversion of the employee.

## **7.7 Employee Benefit Schemes**

- 7.7.1 The Municipality shall endeavour to ensure that employees with HIV/AIDS are not discriminated against with the allocation of employee benefits.
- 7.7.2 The Municipality shall prevail on the medical and pension or retirement funds to maintain a non-discriminatory attitude towards patients with HIV/AIDS and to treat such patients in a similar manner to those affected by other life-threatening diseases.
- 7.7.3 The aim shall be to ensure that normal benefits remain available to all who initially qualify for admission to the funds via normal procedures, and that no person is denied access to the Pension or Retirement Fund provided they fulfil initial criteria for admission.

## **7.8 Managing HIV positive employees**

- 7.8.1 Employees living with HIV/AIDS shall continue to work under normal conditions in their current employment for as long as they are medically fit to do so. This takes into consideration not only their ability to perform their assigned duties, but also susceptibility to infection.
- 7.8.2 The Municipality shall work towards ensuring that the performance of every staff member is maintained, where possible. This includes taking reasonable steps to accommodate employees with related HIV/AIDS impairments within the workplace, to assist them to continue in productive employment.
- 7.8.3 Employees with HIV/AIDS shall be managed without distinction or discrimination to existing sick leave allocations.
- 7.8.4 Employees shall be referred to appropriate health care facilities or services in the immediate community of Municipality workplaces.
- 7.8.5 The Municipality shall endeavour to provide support or take steps to assist employees with HIV/AIDS to have access to appropriate medical treatment. These shall also include:
  - 7.8.5.1 Giving the employee time off according to the sick leave policy to attend clinics or counselling.
  - 7.8.5.2 Transferring the employee to lighter or less stressful duties, where it is both necessary and possible.
  - 7.8.5.3 When the employee is no longer able to work, the employee shall be dealt with in terms of the Municipality's applicable policies and applicable legislation.

## **7.9 Grievance Procedure**

The Municipality shall ensure that the rights of employees living with HIV/AIDS, and remedies available to employees in the event of a breach of such rights, including confidentiality, are accommodated within the grievance procedure.

**7.10 Dismissal**

**7.10.1** Employees with HIV/AIDS have the right not to be unfairly dismissed on the basis of their HIV status.

**7.10.2** Should the employee be deemed incapable of continuing to work due to ill-health that shall be handled in terms of the Incapacity due to ill-health / injury Policy.

**7.11 Roles and responsibilities**

**7.11.1** The Municipal Manager or his / her delegated assignee(s) accept overall responsibility for the implementation and monitoring of the policy.

**7.11.2** The financial implications related to implementing this policy shall be qualified and quantified by Human Resource Management in consultation with the Chief Financial Officer.

**8. POLICY MONITORING AND EVALUATION**

**8.1** This policy shall be implemented and effective once recommended by the Local Labour Forum and approved by Council.

**8.2** Non-compliance to the stipulations contained in this policy shall be regarded as misconduct, which shall be dealt with in terms of the Code of Conduct.

**8.3** Head of Corporate Services shall carry out the monitoring and evaluation of the policy's implementation.

**9. POLICY APPROVAL**

Formulated by HR Management:  
Consulted with Local Labour Forum:

*Union Representative:* Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Union Representative:* Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by Municipal Council: Signature:  Date: 6/5/2024

